Superior Court of California, County of Lake

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKET

The person who files a civil lawsuit (plaintiff) ***must*** include the ADR Information Packet with the complaint when serving the defendant. Cross complainants ***must*** serve the ADR Information Packet on any new parties named to the action.

The Court ***strongly encourages*** the parties to use some form of ADR before proceeding to trial. You may choose ADR by:

Contacting the ADR Coordinator;
Indicating your preference on Case Management Form CM-110; or
Agreeing to ADR at your Initial Case Management Conference.

ADR INFORMATION GUIDE

There are Alternatives to Going to Trial

Did you know that most of all civil cases filed in court are resolved without going to trial? Many people use processes other than trial to resolve their disputes. These alternative processes, known as Alternative Dispute Resolution or ADR, are typically less formal and adversarial than trial, and many use a problem-solving approach to help the parties reach agreement.

What are the ADR Options?

The most commonly used ADR processes are Mediation, Arbitration, Neutral Case Evaluation, and Settlement Conferences.

♦ **Mediation**
Mediation is a voluntary and confidential process where a trained impartial mediator helps parties in conflict to communicate respectfully and effectively with each other. The mediator facilitates communication by helping the parties define issues, remove communication obstacles, and explore potential solutions. Mediation empowers people to reach informed, acceptable, and realistic agreements.

Mediation may be particularly useful when parties have a relationship they want to preserve. So when family members, neighbors, or business partners have a dispute, mediation may be the ADR process to use. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can listen to the parties and help them communicate in an effective and non-confrontational manner.

♦ **Arbitration**
In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is typically less formal than a trial, and the rules of evidence may be relaxed. Arbitration may be either "binding" or "non-binding." Binding arbitration means the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Non-binding arbitration means that the parties are free to request a trial if they reject the arbitrator's decision.

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

♦ **Neutral Case Evaluation**
In Neutral Case Evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute. Even if not successful in resolving the case, Neutral Case Evaluation can lead to use of other ADR procedures, such as arbitration or mediation, especially when undertaken early in the litigation. Neutral Case Evaluation may be most useful in cases that involve technical issues that require special expertise to resolve or in cases that the only significant issue is the amount of damages.

♦ **Settlement Conferences**
In Settlement Conferences, the parties and their attorneys meet with the judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement Conferences are appropriate in any case where settlement is an option. Mandatory Settlement Conferences, ordered by the Court, are often held near the date a case is set for trial.

ADR Options Available at the Lake Superior Court

Mediation

Parties may voluntarily participate in mediation at any stage of litigation, without court referral, by contacting the ADR Coordinator.

Court Referred Mediation

The Court may refer parties to mediation in any civil case, with the exception of family cases involving custody and visitation. Once the referral has been made, parties may opt to use a Court Panel Mediator or to hire a private mediator. If the parties elect to use a Court Panel Mediator, then a qualified Court Panel Mediator will be assigned through the ADR Coordinator. With Court Panel Mediations, there will be no charge to the parties for the first two hours. If the parties choose to continue the mediation after the two hours, the mediator may charge up to $200 per hour for his or her services.

Community Mediation

The Lake Superior Court's Civil Mediation Program works in conjunction with local community mediation service providers to ensure that parties in conflict have the option for settling their disputes without resorting to litigation. Any type of "community dispute" can be resolved through mediation. Some examples include neighbor, employment, consumer, school, roommate or group conflicts.

Benefits of Mediation

Privacy - All discussions during the mediation are confidential.

The parties reach their own solution - The mediator will not impose a solution on the parties. The solution is based on the interests and needs of the parties.

No cost or reasonable cost – The cost of participating in mediation is minimal compared to the cost of litigation - or the cost of doing nothing. Mediations conducted by a member of the Court Civil Mediation Panel are no cost to the parties. If the parties opt to use a private mediator, the Civil Mediation Program Coordinator will help them find a mediator.

Flexible scheduling – Mediations can be scheduled to accommodate all parties and their attorneys.

Clear, respectful communication – Mediation can provide the opportunity for understanding or reconciliation.

Quicker resolution – Parties are often able to resolve their conflict in one session, though more sessions will be scheduled, if needed.

Effective – The parties know more about their conflict than anyone else does. Developing their own agreements offers satisfaction and success.

Agreement options – Any written agreement made in the course of litigation will be treated as a legally enforceable agreement.

For more information about the *Lake Superior Court's Civil Mediation Program* contact:

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